

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON FISH AND GAME

Call to Order: By **CHAIRMAN MIKE SPRAGUE**, on January 11, 2001 at 3 P.M., in Room 303 Capitol.

ROLL CALL

Members Present:

Sen. Mike Sprague, Chairman (R)
Sen. Jack Wells, Vice Chairman (R)
Sen. Al Bishop (R)
Sen. Edward Butcher (R)
Sen. William Crismore (R)
Sen. Pete Ekegren (R)
Sen. Jon Ellingson (D)
Sen. Debbie Shea (D)
Sen. Bill Tash (R)

Members Excused: Sen. Eve Franklin (D)
Sen. Jon Tester (D)

Members Absent: None.

Staff Present: Roberta Opel, Committee Secretary
Mary Vandembosch, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SR 2 and HR 2
Executive Action: SR 2

HEARING ON SR 2 and HR 2

Sponsor: _____ **SEN. ED BUTCHER, SD 47, Winifred.**

Proponents: Rep. John Witt, HD 47
 Rep. Bill Thomas, HD 93
 Bill Thompson, Blaine County
 Dale Hankins, Choteau County Planner
 Morgan Darlington, Darlington Ranch
 Jim Cummings, Lewis & Clark Canoe Expeditions
 Larry A. Bitz, Wild & Scenic River permittee
 Ralph S. Gailey, Macum Energy, Inc.
 Carl Seilstad, Fergus County Commissioner
 Ron Poertner, Missouri River Stewards
 Matt Knox, Missouri River Stewards
 Dale Strouf, Fergus County Farm Bureau
 Oscar Cantu, Winifred teacher
 Kenneth Evans, Choteau County Commissioner
 Walter Bold, on his own behalf
 Travis M. Butcher, Fergus County
 John Bloomquist, Montana Stockgrower's Association
 Cary Hegreberg, Montana Wood Products Association
 Mike Murphy, Montana Water Resources Association
 Mike Collins, MT. Resource Provider's Coalition
 Mark Peterson, Winifred
 Jack Arnst, Choteau County Planning Board
 Rep. Aubyn Curtiss, HD 81

Opponents: Will Boland, Helena
 Bob Decker, Director, MT. Wilderness Association
 Wendy Whitehorn, Teton County
 Mert Fregholtz, MWA, Havre
 Dyrck Van Huning, MWA
 Glen Manahan, Upper Missouri River Guides
 Mark Good, MWA, Great Falls
 Stan Frasier, Helena
 Kris Dunn, on her own behalf
 Dave Dittloff, Montana Wildlife Federation
 Aart Dolman, on her own behalf
 Arlo Skari, MWA, RAC
 Ross Rodgers, Bozeman
 Paul Edwards, Helena
 Hugo Tureck, Chairman, RAC
 Betsey Forbes, on her own behalf

Opening Statement by Sponsor(s):

SEN. EDWARD BUTCHER, SD 47, introduced SR 2 stating that the bill addresses the reason why eight years of federal policy has made Montana last in the nation economically. Montana has lost jobs and its economic base, he said.

REP. JOHN WITT, HD 89, representing the upper reaches of the Missouri River, stated HR 2 is similar to the Joint Resolution passed in the May Special Session which indicated approximately 69% of Montanans oppose monument designation. HR 2 enforces Montanans opposition to the Missouri River monument designation and signals officials that the majority of Montanans oppose designation, he said.

Proponents' Testimony:

REP. BILL THOMAS, HD 93, stated the northern border of his district includes the Wild and Scenic Missouri River which is sufficient designation. **REP. THOMAS** displayed for the committees two large photographs depicting Citadel Bluff and Cathedral Rock.

REP. THOMAS stated, "We do not need, nor do we desire, further federal intervention on the river. We are declaring the Wild and Scenic designation is sufficient," he concluded.

EXHIBIT(fis08a01)

Bill Thompson, Blaine County farmer, presented written testimony opposing monument designation stating it would compromise recreational value. **EXHIBIT(fis08a02)**

Dale Hankins, Choteau County Planner, cited the Staircase-Escalante National Monument in southern Utah as an example of what can go wrong in monument designation. **EXHIBIT(fis08a03)**

Morgan Darlington, Darlington Ranch, urged the committees to remember their Montana heritage and vote against making land in Montana a national monument.

Jim Cummings, Lewis & Clark Canoe Expeditions, stated new monument designation will not change areas currently protected. "This is designation without a recipe," he said.

Larry A. Bitz, Wild & Scenic River permittee, asked the committees to stop the "runaway power train."

Ralph S. Gailey, on behalf of Macum Energy, Inc., an independent oil and gas company, submitted written testimony asking the committee to "give thoughtful consideration to this important matter." **EXHIBIT(fis08a04)**

Carl Seilstad, Fergus County Commissioner and President of Walleyes Unlimited, testified against any new designation in the Missouri River Breaks. **EXHIBIT(fis08a05)**

Ron Poertner, Missouri River Stewards, testified in support of HR 2 and criticized the public review process stating public comment was sought after the Presidential initiative. **EXHIBIT(fis08a06)**

Matt Knox, Winifred rancher and Chairman, Missouri River Stewards, thanked the committees for passing a similar Resolution during the Special Session and urged passage of SR 2 and HR 2.

Dale Strouf, President, representing the Fergus County Farm Bureau and the Montana Farm Bureau Federation, told the committee they would like to see SR 2 passed.

Oscar Cantu, Winifred Ag Education teacher, observed that rangeland had improved along the Missouri River in the past 27 years so there need for this designation."

Kenneth Evans, Choteau County Commissioner, submitted testimony opposing SR 2. **EXHIBIT(fis08a07)**

Walter Bold stated monument designation is not good for the land or the economy. **EXHIBIT(fis08a08)**

Travis M. Butcher, Fergus Co. landowner, asked the committees to "help save our businesses."

John Bloomquist, Montana Stockgrower's Association, urged the committees to support both Resolutions.

Cary Hegreberg, Montana Wood Products Association, stated support for the Resolutions on philosophical grounds.

Mike Murphy, Montana Water Resources Association, stated support for both HR 2 and SR 2.

Mike Collins, Montana Resource Provider's Coalition, stated support for both Resolutions.

Mark Peterson, Winifred farmer, stated opposition to the monument designation. **EXHIBIT(fis08a09)**

Jack Arnst, Chairman, Choteau County Planning Board, said that although he did not want to compare the two men, "there is a pretty good correlation between President Clinton and Hitler."

REP. AND VICE-CHAIRMAN, AUBYN CURTISS, HD 81, testified in "strong support" of both Resolutions stating that the 55th Legislature passed a Resolution indicating Montanans support policies that balance the social, economic and environmental needs of Montanans.

Opponents' Testimony:

Will Boland, Helena, addressed a recurring theme: "the unreasonableness of the federal government to be involved in this state" when the federal government is already subsidizing a large percentage of Montana agriculture. The federal government has the right to make a decision to protect "this exquisite natural area." Monument designation is an idea whose time has come, he said.

Bob Decker, Executive Director, Montana Wilderness Association (MWA), read through **WHEREAS** sections of SR 2 stating the Antiquities Act of 1906 gives authority to the President of the United States to declare national monuments.

"Public dialogue opportunities in this issue have been numerous and visible. A great many Montanans and Americans support increased protection of the river," Mr. Decker said.

EXHIBIT(fis08a10)

Wendy Whitehorn, Teton County agriculturist, testified against HR 2 and SR 2 and submitted testimony saying that the argument that a majority of Montanans oppose a new designation is "unsupported by the facts." **EXHIBIT(fis08a11)**

Mert Fregholtz, MWA, Havre, testified that he supports monument designation because it would stop oil and gas drilling. He noted that he is not opposed to grazing in the Missouri Breaks area.

DYRCK VAN HUNING, MWA, asked the committees to examine the **WHEREAS** portion of each Resolution noting that public input regarding this monument designation was sought, and received, in an appropriate time frame. **EXHIBIT(fis08a12)**

Glen Manahan, Upper Missouri River Guides, told the committees monument designation would be good for the country, good for Montana, and good for the river.

Mark Good, MWA, Great Falls, stated there is always opposition to designations including Glacier National Park and Scapegoat Wilderness and added that he believes 25 years from now, people will look back and agree this was the thing to do.

Stan Frasier, testifying on his own behalf, clarified that the monument designation affects federal public property not private property. Passage of the Resolutions, he continued, will demonstrate that this Legislature is "out of touch with the people of Montana."

Kris Dunn, former county commissioner, former school trustee and fourth generation Montanan, and supporter of the Missouri Breaks monument designation, said she disagreed with **SEN. BUTCHER'S** statement that designation would be devastating to Montana economy.

Dave Dittloff, Conservation Director, Montana Wildlife Federation, said national monument designation would give BLM "tighter and greater direction concerning recreational overuse" and implement controls to be placed on ATV use. **EXHIBIT(fis08a13)**

Aart Dolman, testifying on his own behalf, stated that Montana citizens have a moral integrity and responsibility to protect the natural heritage of the state. **EXHIBIT(fis08a14)**

Arlo Skari, MWA and RAC member, reminded the committees that deliberations had occurred over the course of four months.

Ross Rodgers, Bozeman, stated there had been a long history of effort directed at improving protection for this section of the

Missouri River. He asked the committees to "vote against these two insulting Resolutions."

Paul Edwards, Helena, emphasized that the White Cliffs should be preserved forever.

Hugo Tureck, RAC Chairman, said to keep credibility, he recommended voting against HR 2 and SR 2 and implementing the RAC recommendations.

Betsey Forbes, testifying on her own behalf, submitted testimony supporting monument designation. **EXHIBIT(fis08a15)**

Questions from Committee Members and Responses:

SEN. AL BISHOP asked **SEN. BUTCHER** if there had been a poll taken or a study made that indicated the Resolution is the intent of the majority of Montanans.

SEN. BUTCHER answered there were a series of polls taken with a variety of questions asked and one poll did specifically show more opposition to the designation. There did not seem to be any legitimate polls, he said, because the questions were "all shaded one way or the other."

SEN. BISHOP directed the question to any committee member who could elaborate on his question.

Matt Knox testified the Missouri River Stewards circulated a petition statewide in paper form as well as via the internet. They received 4100 signatures; filtering 300 out-of-state signatures. Approximately 3,800 Montanan's signed the petition opposing this designation, he said.

SEN. BISHOP asked Mr. Knox if it was true that a majority of Montanans opposed the new designation.

Mr. Knox replied, yes, that is an accurate statement.

SEN. BISHOP asked to have definitive proof that these results are true.

REP. DEE BROWN asked all those who were Montana residents since the Wild and Scenic Act to stand and further asked those who live within a fifty mile radius of the monument to remain standing.

REP. ROBERT STORY asked if monument designation would place more restrictions on the property.

Mr. Dittloff replied that there would be more restrictions on oil and gas on BLM properties or recreational management.

REP. STORY asked if there would be more restrictions placed on use of the river.

Mr. Dittloff said there may be more restrictions in place in regard to recreational floating. Mr. Dittloff said that, at times, there has been damage caused by too many floaters in certain campsites so this restriction could be beneficial.

REP. STORY asked how the designation would benefit Montana's economy.

Mr. Dittloff said Secretary Babbitt would like to draw monies to the local cities. The RAC and Secretary Babbitt have both endorsed that BLM land within the Breaks remain in a pristine, wild condition with continued cattle grazing, he added.

REP. STORY asked if property restrictions are in place, what will bring additional economy to the state.

Mr. Dittloff replied that keeping the area wild, pristine, and full of wildlife and protecting the sites of antiquity, will continue to draw tourists to the area.

SEN. BILL TASH asked what agency would enforce use restrictions.

Mr. Dittloff stated BLM would enforce restrictions.

SEN. TASH asked if this enforcement would be in conjunction with FWP.

Mr. Dittloff said BLM would be the main enforcement agency.

SEN. JON ELLINGSON asked **SEN. BUTCHER** if there had been any studies conducted other than the petition that supports the **WHEREAS** section of his bill.

SEN. BUTCHER replied that to his knowledge, there had been no other petition.

SEN. ELLINGSON asked **SEN. BUTCHER** if it was his request, then, that a decision be made based simply on an allegation? "Don't you think it would be better to have a study to base our opinion on, one way or the other?"

SEN. BUTCHER said the focus should be based on more than polls and studies. This issue is one of use and impact to the state, he said.

SEN. ELLINGSON said he was being asked to sign a document adopting a position he did not have enough information about. He said he was uncomfortable taking a position where no satisfactory evidence had been presented. He further stated it was his understanding that the designation applied only to public lands now under federal management.

SEN. BUTCHER corrected **SEN. ELLINGSON'S** statement stating "there are at least 89,000 acres of private land involved in the designation."

SEN. ELLINGSON asked what specific impact the designation would have on private land within the monument area.

SEN. BUTCHER stated there could be reduced usage in the area, as well as access issues and locked gates. "The more you put power within the federal government, the more you wind up with a situation with restrictions on the uses in the area and the people who live there," **SEN. BUTCHER** observed.

REP. CAROL JUNEAU asked **Wendy Whitehorn** if she could provide petition statistics regarding the designation.

Wendy Whitehorn said she would be able to provide the committee those numbers.

SEN. PETE EKEGREN asked **Matt Knox**, Missouri River Stewards, to share the results of the poll commissioned by the Stewards.

Mr. Knox said the Stewards commissioned a poll to determine public opinion. "We honestly wanted to know," Mr. Knox said. The structure of the poll, commissioned by Moore & Associates of Portland, OR, was probably the fairest and the most objective poll taken, he said, with 54% of Montanans opposed to the designation.

Mr. Knox said that when the BLM conducted the first series of 11 meetings, Secretary Babbitt said that to recommend monument designation, there would need to be "widespread, local/regional support." After the meetings were conducted, the BLM report stated there was almost "universal opposition" to the idea of designation. So there wasn't the required local/regional support, yet the process continued, **Mr. Knox** noted.

REP. TOM DELL asked **Mr. Dittloff** why there is need for new designation in the Wild & Scenic designated area.

Mr. Dittloff stated the Wild & Scenic designation "did its'job" which was to prevent the development of two dams. There was opposition to this designation in Congress twenty five years ago but the problems anticipated did not occur. Designation extends from rim to rim or bank to bank. The heads of the Coulees in the Breaks, the most critical wildlife habitat area, is not currently protected. Elk and Big Horn sheep will come up from the river area to the heads of the Breaks. This is crucial habitat not currently protected and it is not within the Wild & Scenic boundary.

REP. JOE MCKENNEY asked **REP. THOMAS** if the RAC had ever addressed the monument designation.

REP. THOMAS stated that the RAC produced only "smoke and mirrors" and did not address the designation.

REP. ALAN OLSON asked **Mr. Gailey** if the Wild & Scenic River designation limited oil and gas exploration in the river corridor.

Mr. Gailey replied that it did not. The bank to bank is sacred, he said.

REP. OLSON asked if drilling was limited in the Wild & Scenic Corridor.

Mr. Gailey said that no one has applied for a permit to drill in that area.

REP. OLSON asked how many additional acres were included in gas production.

Mr. Gailey said he was unsure.

SEN. WELLS asked **SEN. BUTCHER** if he felt the current federal designation provided protection for this area of the river.

SEN. BUTCHER said the current designation had actually enhanced protection of this pristine area.

SEN. WELLS asked Mr. Decker if he could provide figures indicating the number of acres nationwide devoted to monuments.

Mr. Decker replied that he did not know.

SEN. WELLS asked how many acres comprise the monument designation.

Mr. Decker said the Wild & Scenic designation applies to about 75,000 acres along the designated river; bank to bank and rim to rim corridor. Conservationists are seeking a national monument designation of close to 400,000 acres that envelopes the uplands/public lands that form the wildlife habitat and the wild areas that are not in the corridor and are not covered by the previous legislation.

SEN. WELLS asked how many acres were involved in the Staircase-Escalante National Monument area.

Dale Hankins answered 1.7. million acres.

REP. TRUDI SCHMIDT asked **REP. WITT** to explain the differences between the present Resolution and the one presented in the Special Session.

REP. WITT said the Resolutions were the same except for the last two paragraphs.

REP. SCHMIDT asked **SEN. BUTCHER** to elaborate on his statement that jobs in Montana would be lost.

SEN. BUTCHER replied that proponents to the monument claim jobs will be introduced. Opponents to the monument see ranch units being forced out, he said.

REP. SCHMIDT asked **Hugo Tureck** to address **REP. THOMAS'S** statement that there wasn't a RAC consensus on designation.

Mr. Tureck said that was true; RAC is a consensus counsel representing competing interest groups and unless there is a consensus within the group, they do not offer recommendations.

The RAC examined 500 pieces of testimony and determined there was no consensus among Montanans so they addressed the most common issues heard in testimony, Mr. Tureck said, including protecting private property rights, continued BLM management and most importantly, keeping the area wild.

REP. SCHMIDT told the committees she was hoping groups could come to some agreement. **REP. SCHMIDT** asked to have one of the ranchers answer her question, what he would be most afraid of, if the Resolutions passed.

Mr. Knox, Missouri River Stewards, stated his main concern is his family investment in the ranch and how private lands that are landlocked by federal lands will affect this investment. He noted that the Missouri Breaks are too rough to be fenced and private lands cannot economically be fenced. If ranchers start to lose grazing rights, or water sources, grazing rights can be lost and this would affect private lands.

Closing by Sponsor:

SEN. BUTCHER told the committees that SR 2 is vital to Montanans. As a historian and third generation Montanan, he told the committees the Wild & Scenic designation is "more than adequate to protect this river."

"The policy of this administration to remove stewardship of the land from those who live on it, love it, and understand the land, and give it to a bunch of bureaucrats to manage will destroy what they are attempting to preserve."

SEN. BUTCHER asked his colleagues to reject the monument designation which would be "detrimental to Montana, its' people and its' economy."

Closing by Sponsor:

REP. WITT said the upper reaches of the Missouri River, about 70%, are private lands below PN bridge. The major impact on the Missouri River will take place from Ft. Benton to the PN bridge

and this umbrella is impacting 70% of the private lands in this area of the river.

REP. WITT said a river management plan is needed not further designation. The BLM has a responsibility to manage this river corridor to control traffic.

EXECUTIVE ACTION ON SR 2

SEN. WELLS moved to allow proxy votes for missing Senate Fish & Game members, **SENATORS BISHOP, TESTER and FRANKLIN**.

Motion/Vote: **SEN. BUTCHER** moved **SR 2 DO PASS**. The motion carried 8-3 with **SENATORS BISHOP, ELLINGSON and FRANKLIN** voting "no". **SENATORS FRANKLIN and TESTER** submitted their proxy votes, 1/12/2001.

ADJOURNMENT

Adjournment: 5:18 P.M.

SEN. MIKE SPRAGUE, Chairman

ROBERTA OPEL, Secretary

MS/RO

EXHIBIT (fis08aad)